may authorize a person or persons to carry out the CRP or other function(s) for such period of time as is deemed necessary by the Deputy Administrator.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43944, Aug. 27, 1996]

### § 704.4 Applicability.

(a) The CRP is applicable in the 50 States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(b) The CRP is applicable to private croplands, Indian tribal croplands, and State or local government croplands that otherwise meet the requirements of eligibility set forth in § 704.7.

### § 704.5 Maximum county acreage.

The maximum acreage in a county which may be placed in the CRP may not exceed 25 percent of the total cropland in the county unless CCC determines that such action would not adversely affect the local economy of the county.

### § 704.6 Eligible person.

In order to be eligible to enter into a CRP Contract in accordance with this part, a person must be an owner or operator of eligible cropland and—

(a) If an operator of eligible cropland, must have operated such cropland for the period beginning not less than 3 years prior to the close of the applicable signup period of January 1, 1985, whichever is later, and must provide satisfactory evidence that such person will be the operator of such cropland for the CRP Contract period; or

(b) If an owner of eligible cropland, must have owned such cropland for not less than 3 years prior to the close of the applicable signup period, unless:

(1) The new owner acquired such cropland by will or succession as a result of the death of the previous owner;

(2) The new owner acquired such cropland prior to January 1, 1985; or

(3) It is determined that the new owner of such cropland did not acquire such cropland for the purpose of placing it in the CRP.

### § 704.7 Eligible cropland.

(a) In order to be eligible to be placed in the CRP, a field must—

(1) Have been annually planted or considered planted to produce an agricultural commodity other than orchards, vineyards, or ornamental plantings in 2 of the 5 crop years, 1981 through 1985;

(2) Be physically possible to be planted to produce an agricultural commodity other than orchards, vineyards, or ornamental plantings;

(3) Consist predominantly of soils that meet the criteria of paragraph (a)(3)(i) or (a)(3)(ii) of this section as specified for CRP contracts for the respective crop years in paragraph (a)(3)(iii) of this section.

(i) Identified as being highly erodible in accordance with § 704.8 of this part and having an erosion rate during the crop years 1981–1985 greater than that recommended by the Soil Conservation Service Field Office Technical Guide.

(ii) Classified by NRCS as being predominantly Land Capability Classes II, III, IV, and V with an average annual erosion rate of 2T or greater, as announced by the Secretary; or being predominantly Land Capability Classes VI, VII, or VIII.

(iii)(A) For CRP contracts entered into pursuant to offers to participate in the CRP submitted during signup periods prior to February, 1987, criteria set forth in paragraph (a)(3)(ii) of this section shall be applicable.

(B) For CRP contracts for the 1988 crop year entered into pursuant to offers to participate in the CRP submitted during the February, 1987, signup, criteria set forth in paragraph (a)(3)(i) of this section shall be applicable.

(C) For all other CRP contracts, criteria set forth in either paragraph (a)(3)(i) or (a)(3)(ii) of this section shall be applicable.

(4) If a redefined field, be a manageable unit which meets the minimum acreage requirements as established by CCC for the county.

(b) Land subject to a contract under the Great Plains Conservation Program, Agricultural Conservation Program, Forestry Incentives Program, Rural Clean Water Program, or similar program contract or land currently

under an annual program with maintenance on lifespan requirements may be eligible to be placed in the CRP if the eligible cropland meets the requirements of paragraph (a) and the conservation practices required under the CRP are consistent with the requirements of the existing contracts.

(c) A field shall be considered to be predominantly highly erodible if 66⅔ percent or more of the land in such field meets the applicable requirements of paragraph (a)(3) of this section: *Provided,* That a field on which the participant agrees to plant trees may, as determined necessary by the Deputy Administrator to achieve overall program goals, be considered to be predominantly highly erodible if 33⅓ percent or more of the land in such field meets the applicable requirements of paragraph (a)(3) of this section.

(d) A field determined to be suitable for use as a filter strip may be eligible to be placed in the CRP, although it does not meet the applicable erodibility criteria of paragraph (a)(3) of this section, if the participant agrees to grow permanent grass, forbs, shrubs or trees on such field. A field may be considered to be suitable for use as a filter strip only if it—

(1) Meets the criteria of paragraph (a)(1) of this section;

(2) Is located adjacent to streams having perennial flow, other waterbodies of permanent nature (such as lakes and ponds), or seasonal streams, excluding such areas as gullies or sod waterways;

(3) Is capable, when permanent grass, forbs, shrubs or trees are grown on the field, of substantially reducing sediment that otherwise would be delivered to the adjacent stream or other waterbodies; and

(4) Is 1.0 to 1.5 chain lengths (66 to 99 feet) in width: *Provided,* That such width may be adjusted to the extent necessary to meet NRCS Field Office Technical Guide criteria.

(e)(1) A field which has evidence of scour erosion caused by out-of bank flows of water, as determined by NRCS, or wetland areas, and which meets the other requirements of this paragraph may, as approved by CCC, be eligible to be placed in the CRP, although the field does not meet the erodibility criteria of paragraph (a)(3) of this section.

(2) In order for land to be eligible for enrollment in the CRP under this paragraph, the land must be cropland and must meet the criteria of paragraphs (a)(1) and (a)(2) of this section.

(3) In order for land to be eligible for enrollment in the CRP on the basis of scour erosion, the land at the time of enrollment in the program must be cropland which:

(i) Can be expected to flood a minimum of once every 10 years; and

(ii) Has evidence of damage as a result of such scour erosion.

(4) For purposes of this paragraph, the term ''wetland'' shall, to the extent practicable, be given the same meaning as is designated in the regulations in 7 CFR part 12.

(5) To the extent practicable, only cropland areas of a field may be enrolled in the CRP under this paragraph. The entire cropland area of an eligible field may be enrolled in the CRP if:

(i) The size of the field is 9 acres or less, or,

(ii) More than one third of the cropland in the field is either wetland or is land which, in the case of scour erosion, lies between the water source and the inland limit of the scour erosion.

If the full field is not eligible for enrollment, the quantity of cropland within the field which is eligible for enrollment shall be determined in accordance with subparagraphs (6) and (7).

(6) If the full field is not eligible for enrollment under this paragraph:

(i) That portion of the field eligible for enrollment on the basis of scour erosion shall be that portion of the cropland between the water body and the inland limit of the scour erosion plus whatever additional areas would otherwise be unmanageable and would be isolated by the eligible areas; and,

(ii) That portion of the field which is eligible for enrollment on the basis of the presence of wetlands, shall be only the wetland, except as determined under paragraph (7).

(7) The area of a field deemed eligible for enrollment under this paragraph may be adjusted as necessary to establish manageable boundaries between the eligible and ineligible areas of the field.

(8) If cropland is approved for enrollment in the CRP under this paragraph, the eligible cropland shall be planted to an appropriate tree species approved by NRCS unless tree planting is determined to be inappropriate by NRCS in which case the eligible cropland shall be devoted to another acceptable permanent vegetative cover approved by NRCS and the CCC.

[52 FR 4269, Feb. 11, 1987, as amended at 52 FR 27537, July 22, 1987; 53 FR 734, Jan. 12, 1988; 54 FR 803, Jan. 10, 1989; 61 FR 43944, Aug. 27, 1996]

### § 704.8 Criteria for identifying highly erodible land.

(a) Soil map units will be used as the basis for identifying highly erodible land. The erodibility of a soil is determined by dividing the potential average annual rate of erosion for each soil by the predetermined soil loss tolerance (T) value for the soil.

(1) The potential average annual rate of sheet and rill erosion is estimated by multiplying the following factors of the Universal Soil Loss Equation (USLE):

(i) Rainfall and runoff (R),

(ii) The degree to which the soil resists water erosion (K), and

(iii) The function (LS), which includes the effects of slope length (L) and steepness (S).

(2) The potential average annual rate of wind erosion is estimated by multiplying the following factors of the Wind Erosion Equation (WEQ): Climatic characterization of wind speed and surface soil moisture (C) and the degree to which soil resists wind erosion (I).

(3) The USLE is explained in U.S. Department of Agriculture Handbook 537, ''Predicting Rainfall Erosion Losses.'' The WEQ is explained in Agriculture Handbook 346, ''Wind Erosion Forces in the United States and Their Use in Predicting Soil Loss.'' Copies of the handbook may be obtained by writing: U.S. Department of Agriculture, Soil Conservation Service, Land Treatment Programs Division, Washington, D.C. 20013–2890. Values for all the factors used in these equations are contained in the SCS field office technical guide and the references which are a part of the guide.

(b) A soil map unit subject to significant erosion by water or by wind shall be determined to be highly erodible if either the RKLS/T or the CI/T value equals or exceeds 8.

(c) Whenever a soil map unit description contains a range of slope length and steepness characteristics that produce a range of LS values which result in RKLS/T quotients both above and below 8, the soil map unit will be entered on the list of highly erodible soil map units as ''potentially highly erodible.'' The final determination of erodibility for an individual field containing these soil map delineations shall be made by an on-site investigation.

### § 704.9 Conservation plan.

(a) The applicant, in consultation with the NRCS or another source as approved by the NRCS, in consultation with FSA, shall develop the conservation plan.

(b) The NRCS shall ensure that the conservation practices included in the conservation plan and agreed to by the applicant will achieve the reduction in erosion necessary to maintain the production capability of the soil.

(c) If applicable, a tree planting plan shall be developed by the State Forester and shall be included with the conservation plan.

(d) All conservation plans must be approved by the CD, or for areas not located within a CD, a representative of NRCS.

(e) The conservation plan may include practices which will enable participants to be in compliance with provisions of 7 CFR part 12 governing production of agricultural commodities on highly erodible land when the contract expires, if the participant agrees in writing to: (1) Minimize soil erosion on the land during the installation of such conservation practices, and (2) re-establish disturbed vegetative cover at no cost to CCC.

[52 FR 4269, Feb. 11, 1987, as amended at 61 FR 43944, Aug. 27, 1996]

### § 704.10 Eligible conservation practices.

(a) Eligible conservation practices are those practices specified in the conservation plan that meet all quantity